

LETTER OPINION
72-235

January 6, 1972 (OPINION)

Mr. Fred A. McKennett

City Attorney

Williston, ND 58801

RE: Motor Vehicles - Operator's License - Not Necessary on Private P

This is in response to your letter in which you state that the city is currently in the process of promulgating an ordinance controlling the operation of snowmobiles within the city limits. You ask the following question:

"Is it necessary for an operator of a snowmobile upon private property to have a valid North Dakota Motor Vehicle Operator's license in his possession?"

You also ask in regard to the above question, "is it relevant whether the snowmobile is operated upon the private property owned by the operator or his parents."

As to the general question whether or not a snowmobile operator must have a license, we are enclosing a copy of an opinion addressed to Raymond Rund, the state's attorney of Steele County, dated January 7, 1970. The conclusions reached therein among other things stated that the operator of a snowmobile must have an operator's license.

This conclusion is premised on the statutory definitions of motor vehicles and vehicles as found in subsections 32 and 72 respectively of section 39-01-01, together with the provisions of section 39-06-01.

A snowmobile is a motor vehicle and a vehicle even though it is individually defined in subsection 2 of section 39-24-01 to mean a self-propelled vehicle designed for travel on snow, ice, or natural terrain and steered by wheels, skis, or runners.

Because a snowmobile is a motor vehicle, the provisions of section 39-06-01 become operative. The opening sentence would appear to be controlling. "No person, except those hereinafter expressly exempted, shall drive any motor vehicle upon a highway in this state unless such person has a valid license as an operator under the provisions of this chapter."

It is noted that such person must have a valid license but it is further noted that the provision applies only to a motor vehicle upon a highway. It does not appear that the requirement to have a license applies to driving the snowmobile in places other than a highway. The term "highway" as used in this section obviously means any road, street, or public property other than a private highway.

It is therefore our opinion that the operator license provision applies only in instances where the snowmobile is operated on a public highway, street, road, or property and does not apply where the snowmobile is operated only upon private property owned by the operator or his parents.

While the operator's license provision does not apply to instances where the snowmobile is operated on private property, the manner in which it is driven and the conditions under which it is driven apply regardless of whether it is on private or public property. The provisions of Chapter 39-08 relating to reckless driving, driving while intoxicated, aggravated reckless driving and negligent homicide apply to the operator in all instances, whether it is on highway or private property. The operator, even though he might not be required to have an operator's license, still subjects himself to the penalties imposed for committing any of the above described acts, whether it be on public highways, or on private property. See section 39-10-01.

Helgi Johanneson

Attorney General